

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

THE ESTATE OF JAMES D.	:	
GALLOWAY, Deceased, by and through:	:	Civil Action No. 05-0050 Erie
EDMOND C. GALLOWAY, Successor	:	
Trustee of the JAMES D. GALLOWAY	:	Judge Sean J. McLaughlin
Revocable Living Trust,	:	
Plaintiff	:	
	:	
v.	:	
	:	
THE UNITED STATES OF AMERICA,	:	
Defendant	:	

**UNOPPOSED MOTION TO SUBSTITUTE EDMOND C. GALLOWAY, SUCCESSOR
TRUSTEE, AS PLAINTIFF, AND TO AMEND COMPLAINT TO QUALIFY
SUBSTITUTE PLAINTIFF AS THE REAL PARTY IN INTEREST**

The plaintiff, the Estate of James D. Galloway, Deceased, by and through Edmond C. Galloway, Successor Trustee of the James D. Galloway Revocable Living Trust, by and through undersigned counsel, move this Court for an order substituting Edmond C. Galloway, Successor Trustee, as the sole plaintiff in this case. In support of this motion, the movants aver as follows:

1. The original complaint identifies the plaintiff as above captioned.
2. The appropriate plaintiff is Edmond C. Galloway, Successor Trustee of the James D. Galloway Revocable Living Trust.
3. Under applicable law, an estate cannot be a plaintiff in an action. In re Harrisburg Trust Co., 80 Pa. Super 585 (1923). Accordingly, the substitution described above is necessary in order for the plaintiff, as substituted, to have proper standing to bring plaintiff's actions.

4. The plaintiff has submitted, as Exhibit A, a First Amended Complaint reflecting the corrected caption and factual allegations at paragraph 4 necessary to establish Edmond C. Galloway's standing as Successor Trustee.

5. Edmond C. Galloway in his capacity as substituted plaintiff shall be deemed to have the same affect as if he had originally commenced the above captioned action.

6. The parties cooperate in this unopposed motion to comply with FRCP Rule 17. Defendant does not oppose this motion and the relief sought herein.

7. The Court is authorized to grant this motion under FRCP Rules 17 and 25 and the substitution shall have the same effect as if the action had been originally commenced in the name of the real party in interest.

Respectfully submitted,

QUINN, BUSECK, LEEMHUIS, TOOHEY
& KROTO, INC.

/s/Arthur D. Martinucci

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Executor of the Estate of James D.
Galloway

The relief sought by this motion is unopposed.

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